

By Ryan Oliver

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LOS ANGELES — The same tactic used to convict Chicago mobster Al Capone has uncovered some 200 Los Angeles County doctors suspected of bilking insurance companies and state health care funds of millions of dollars.

Additional staff has been added to a small district attorney pilot program targeting mostly medical fraud investigations. They want to ramp up criminal filings after spending two years generating a massive list of suspects, using a combination of new and old techniques.

"The gross amount of fraud we're talking about is well over \$200 million," said Deputy District Attorney Al MacKenzie. "It's staggering. It's disgraceful. You have one doctor alone who got \$23 million in five years from the workers' comp. system."

'Upper Echelons'

MacKenzie, however, won't be seeking medical fraud charges, which can take years to investigate and prosecute.

Instead, he is relying on the old tax evasion trick the feds took Capone out with because it's easier to prosecute. And using today's technology, he has been able to churn out the names of suspected doctors at a furious rate without having to stray from his computer.

"What I've found over the years is that it is very, very difficult to prosecute crooked professionals using a traditional fraud approach," MacKenzie said. "You have to track down individuals to try and get them to roll over on the upper echelons. Then you could be spending another year in court."

Mass E-Mail

"But we don't want to do all of this pick-and-shovel work. My whole goal is to try and get these people into jail in a reasonable amount of time."

The concept MacKenzie has devised is fairly simple, as he explains it. When MacKenzie gets a report of a doctor involved in potential unscrupulous billing, he sends out a mass e-mail to a list of insurance companies, government agencies and self-insured employers he has compiled and asks them how much money that doctor has received from them over a period of years.

MacKenzie then makes a call to the state Franchise Tax Board with that figure. If that figure exceeds the gross income the doctor reported, someone from the board will call him back with the doctor's reported income. Otherwise, he doesn't hear back from the board.

No warrant is required for this, MacKenzie said.

"What we find is that a very substantial number of people committing health care fraud are either not filing or they are grossly underreporting," he said. "If you read their tax returns, they're eligible for food stamps. So you have these people living in multimillion-dollar houses, driving six-figure cars, living extravagant lifestyles, and they're not paying or filing state income taxes."

So far six people have been convicted by MacKenzie's fraud interdiction program, including a Glendale doctor who pleaded to one count of tax fraud last week for failing to report \$4 million in income.

Authorities believe Saud Salim Rayyis engaged in a variety of insurance and workers' compensation schemes as a general practitioner. He was sentenced to three years in prison, forfeiture of his medical license and fines up to \$800,000.

As for the doctor being investigated for \$23 million in workers' compensation fraud, MacKenzie said he plans to file charges soon. The office also is expanding its tactics in the case to add up all of the billable hours he's submitted and file additional charges for overbilling.

"He's billing more hours than there are in a day," he said. "Once you add up all of the hours from all of the honey pots he's collecting from, surprise surprise, he's working 100 hours a day."

MacKenzie started his medical fraud unit alone in October 2003, and he has accumulated a support staff including two investigators, two law clerks, a secretary, an accounting technician and a student worker. In February, the office assigned another prosecutor, funded through a grant from the state Department of Insurance, as it gets ready to increase its filings and go after the 200 doctors on its target list.

MacKenzie said he spent most of the past two years building his nexus of email contacts and readying a machine that will continue long after he's gone. He said he hopes the program can have a significant impact on medical fraud, which the National Healthcare Anti-Fraud Association estimates to cost \$51 billion to \$170 billion a year nationally.

MacKenzie's supervisor, Head Deputy District Attorney Lance Wong, said if the program is successful, the office will seek more grant money.

"It took some time, like any new program you're trying to organize, to build up momentum and speed," Wong said. "We are hopeful he will carry forth and bring some more big cases."

The idea behind the program stems from a case MacKenzie handled in the early 1980s when he was with the district attorney's major-fraud division. He opened a case against a chiropractor who authorities believed had organized a ring of street hustlers, offering people a hundred dollars or so to photocopy their health insurance cards. The chiropractor would then bill those insurance accounts for around \$2,000 in care and get a check back for \$1,600 from insurance companies under the 80/20 percent indemnity plans common at the time. Forty percent of that money went back to his hustlers while he kept the remaining 60 percent.

"It occurred to me this chiropractor could not be reporting all of his income for tax purposes because he's only keeping 60 percent," he said. "And further, the 40 percent is an illegal deduction because it's not a righteous deduction."

"You can't be deducting expenditures being paid to cappers and runners to perpetuate this crime." MacKenzie said he called a number of insurance companies and asked them to pull all of the checks they had issued to the chiropractor over the past three years.

"They didn't have computer records like they do now, so they had to send people down to the dungeons so they could retrieve those checks."

MacKenzie found hundreds of thousands had been paid to the chiropractor. The total he and his wife reported to the state in that time: \$28,000. "All of the checks sent to him had been cashed out at a checking cashing stand,"

MacKenzie recalled. "We found out what he'd do is drive his Mercedes up to the stand, and he was a V.I.P. customer. So he'd go to the head of the line, ahead of all the poor day laborers trying to cash their pittance checks, and he had been doing this for some time."

The chiropractor was convicted of tax fraud, and MacKenzie remembered what he had learned. Over the years, MacKenzie employed the technique from time to time, and he eventually proposed to District Attorney Steve Cooley that he start a unit specifically designated to employ it full time. "The advantage is speed," he said. "Some time ago, the FBI sent me 20 referrals, and I copied their list and sent it to my contacts. Well in one day, we found out five of them didn't pay or file any state income taxes. That leads to very solid charges."

MacKenzie has been pitching his program to other jurisdictions and has sent information about it to prosecutors in Orange, Riverside and San Diego counties. He also has sent material to the state attorney general's office, the U.S. attorney's office and the state of Hawaii.

"They seem interested," he said. "I've gotten some favorable responses. My goal is to make this a national program because it can be done in any state that has a health care fraud problem."

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